1663

SUPREME COURT OF THE UNITED STATES.

No. 287.

THE UNITED STATES, APPELLANTS,

vs.

JOSÉ JOAQUIN ORTEGA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

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1 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this tenth day of September, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of José Joaquin Ortega *et al.*, for the place named "Valle de Pamo," was presented and ordered to be filed and docketed with No. 332, and is as follows, to wit: (Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *October* 27*th*, 1852.

In case No. 332, José Joaquin Ortega *et al.*, for the place named "Valle de Pamo," the deposition of Abel Stearns, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with document marked H. H. No. 1 annexed thereto, was filed. (Vide page 3 of this transcript.)

LOS ANGELES, *November* 1*st*, 1852.

In the same case, the deposition of Andreas Pico, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed. (Vide page 5 of this transcript.)

LOS ANGELES, *November* 10*th*, 1852.

In the same case, the deposition of S. Arguello, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with
2 document marked H. H. No. 1, and translation thereof, marked E, annexed thereto, was filed. (Vide page 5 of this transcript.)

SAN FRANCISCO, *September* 19, 1853.

Case No. 332 was called, and, on motion of the counsel for the claimants, ordered to the foot of the docket.

SAN FRANCISCO, *Oct.* 22*d*, 1853.

In the same case, the deposition of J. J. Warner, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, with document marked T. C. D., annexed thereto, was filed. (Vide page 6 of this transcript.)

SAN FRANCISCO, *Aug. 28th*, 1854.

In the same case, the deposition of John Foster, a witness in behalf of claimants, taken before Commissioner Peter Lott, was filed. (Vide page 7 of this transcript.)

SAN FRANCISCO, *Sept'r 5th*, 1854.

Case No. 332 was submitted on briefs taken under advisement by the board.

In the same case, the deposition of Thomas W. Sutherland, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed. (Vide page 9 of this transcript.)

SAN FRANCISCO, *Sept. 19th*, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim. (Vide page 35 of this transcript.)

And the following order was made, to wit: (Vide page 36 of this transcript.)

3 *Petition.*

To the board of commissioners for ascertaining and settling private land claims in the State of California:

Your petitioners, José Joaquin Ortega, for himself, and as administrator of the estate of the late Edward Stakes, deceased, of the county of San Diego, in the State of California, respectfully represents to your honorable board that he claims a certain tract of land, called "Valle de Pamo," containing four square leagues, more or less, situated in the county of San Diego and State aforesaid, and that he claims the same in fee by virtue of a grant made to José Joaquin Ortega and Edward Stakes, under the authority of the Mexican government, by Manuel Micheltorena, governor of the department of California, bearing date the twenty-fifth day of November, A. D. one thousand eight hundred and fifty-three, and approved by the territorial deputation on the twenty-fifth day of June, A. D. one thousand eight hundred and forty-five.

Your petitioners further represent, that judicial possession was given to the said grantees of the said tract of land on the first day of December, A. D. 1844, and the boundaries thereof designated and defined, and that they, and those claiming under them, have been in the peaceable possession thereof ever since, and that they have no knowledge of any interfering claim.

Your petitioner further presents herewith a copy of the expediente furnished by the surveyor general, together with a translation of the same, and respectfully refers to the papers filed in the case of the application of the parties hereto for a confirmation of their title to the rancho of "Santa Ysabel," for proof the approval of the departmental assembly, as well as for proof of judicial possession and transt i on of said papers. The said ranchos of "Santa Ysabel"

4 and "Valle de Pamo" having been confirmed to the said José Joaquin Ortega and Edward Stakes by one act of said legislature, and one certificate only having been given of the confirmation of both grants, and said parties having been put into possession of both ranchos by one and the same act.

Your petitioner prays your honorable board to take into consideration his claim to said tract of land, and decree his title to be valid and confirm the same. And your petitioner will ever pray.

SUTHERLAND & CARR,
Att'ys for Claimant.

Filed in office Sept. 10th, 1852.

GEO. FISHER, *Sec'y.*

Recorded in Record of Petitions, vol. 1, pages 230 and 231.
GEO. FISHER, *Sec'y.*

5 *Deposition of Andreas Pico.*

LOS ANGELES, *Nov. 1st*, 1852.

On this day, before Commissioner Hiland Hall, came Andreas Pico, in behalf of the claimant, José Joaquin Ortega *et al.*, petition No. 332, and was duly sworn, his evidence being interpreted by the secretary. The U. S. associate law agent was present. In answer to inquiries by the counsel for the claimant the witness testified as follows:

My name is Andres Pico; my age is forty-one years, and I reside in the city of Los Angeles.

I am acquainted with the land called Santa Maria; I have been since I was nineteen years of age. It was first occupied as a rancho by José Joaquin Ortega and Stakes in the latter part of the year 1844, or the beginning of 1845, and they have occupied it to the present time. They have occupied it with cattle, horses and sheep; have houses on it, and live on it; have corrals and fences, and cultivate it. They have also residences in San Diego, in which they reside a portion of the time.

ANDRES PICO.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Nov. 1, 1852.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 2, p. 188.

GEO. FISHER, *Sec'y.*

Deposition of S. Arguello.

LOS ANGELES, *Nov.* 10, 1852.

On this day, before Commissioner Hiland Hall, came S. Arguello, a witness in behalf of the claimant, José Joaquin Ortega *et al.*, petition No. 332, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

said State, John Foster, a witness in behalf of the claimants, José Joaquin Ortega *et al.*, in case No. 332 on the docket of said board; and said witness, being duly sworn, deposed as follows:

Questions by Sutherland, att'y for claimant.

1st quest. What is your name, age, and place of residence?

Answer. My name is John Foster; age, 38 years; and my residence is in Los Angeles county, California.

2d quest. Are you acquainted with the rancho of Santa Maria or Pamo, in San Diego county? If yea, state how long you have known it, and what you know of its boundaries.

Ans. I am acquainted with said rancho; I have known it ten years. It is bounded on the east by the valley called "Vallena;" from there it runs in a northwesterly direction over some hills known by the name of Santa Teresa, continuing the same line till it comes to a point where San Pasqual is in view from the ridge of hills
9 that forms the boundary of the valley of that name; from there it runs round the base of the mountains which form the boundary of the valley of Santa Maria, circularly to the point of beginning, ("Vallena.")

3d quest. What is the character of the place embraced within these boundaries?

Answer. It is what is generally called flat table land, somewhat intersected by small hills, and surrounded by mountains. It is in a circular or semicircular form, except on the northwest line, which is more direct. It contains about 4 or 5 leagues of land.

Cross-examined by the U. S. associate law agent.

1st quest. Have you ever travelled over the boundaries you have described?

Ans. I have never traversed the boundaries exactly—they are in some places inaccessible—tho' I have been pretty much all over the rancho.

2d ques. Can you state the average width and length of said rancho?

Ans. The length, from an easterly to a westerly point, I should call about 9 miles; and as to the breadth, it varies. It is wider in the middle than at each end. I cannot give any satisfactory idea of the average width on account of the inequality.

3d quest. Are these natural boundaries of a certain and unmistakable character?

Ans. They are high, rocky, and inaccessible mountains, with only 3 or 4 outlets from this valley.

4th quest. How do you know that these are the boundaries of this claim?

Ans. I know them not only from common report, but also from my intimacy with the owners, with whom I have often conversed about the boundaries, and also from my knowledge of the original grant, which I have seen.

JOHN FORSTER.

Subscribed and sworn to before me this 28th day of August, A. D. 1854.

PETER LOTT, *Com'r, &c.*

Filed in office Aug. 28th, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 314.

GEO. FISHER, *Sec'y.*

Deposition of Thos. W. Sutherland.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Sept.* 4, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Thomas W. Sutherland, a witness on behalf of the claimants in case No. 332, José Joaquin Ortega *et al.*, claimant, on the docket of said board; and said witness, being duly sworn, deposed as follows. The U. S. associate law agent present.

Questions by T. W. Sutherland, esq., for claimants.

1st quest. What is your name, age, and residence?

Ans. My name is Thomas W. Sutherland; my age is 36 years; and my residence is in San Francisco, California.

2d question. Are you acquainted with the handwriting of Philip Crosthwaite? If yea, state your means of knowledge, and also whether or not he was acting clerk of the county of San Diego in the year 1853; and look at the document now shown you, marked "Exhibit 1 to the deposition of Thos. W. Sutherland, cl.," and say whether his signature thereon written is genuine.

Ans. I am acquainted with his handwriting, having frequently seen him write, and his signature to this document is genuine, and I know he was acting as clerk of the county of San Diego in 1853, tho' I was not there in October of that year, which this instrument bears date. This impression of a seal I am familiar with, and know it to be that of the county seal of said county of San Diego, and said Crosthwaite was clerk for me when I was alcalde of San Diego,
11 in 1850, and I thus became very well acquainted with his signature.

THOS. W. SUTHERLAND.

Subscribed and sworn to before me this 4th day of September, A. D. 1854.

PETER LOTT, *Com'r, &c.*

Filed in office Sept. 5th, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 328.

GEO. FISHER, *Sec'y.*

13 "*B.*"—*Espediente.*

(1 S. D. K.)

Espediente promovido por Don José Joaq'n Ortega en pretencion del parage nombrado de Balle de Pamo.

(325.)

(2 S. D. K.)

Sello cuarto—Dos reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias para el año de mil ochocientos cuarenta y tres.

MICHELTORENA.
MANUEL CASTANARES.

{ Ad'a de Marit'a de Monterey. }
{ (Place of eagle.) }

MONTEREY, *Nov.* 22 *de* 1843.

En virtud á lo ql. alega nuevam't'e el interesado informe en vista de todo el S. S'rio del despacho sobre las condiciones modo y circunstancias con que pueda ó no accederse.

MICHELT'A.

EX'MO S'OR: José Joaq'n Ortega, vecino de S'n Diego, en este departam'to ante la justificacion de V. E. hayo presente, que el esped'te á que me refiere en mi instancia de 18 del corriente le he conseguido y lo accompaño á V. E. p'a q'e impuerto de todo lo que en el se ha practicado, se sirvirà V. E. ver que no hay inconveniente alguno p'a q'e se me espeda el titulo del terreno nombrado Pamo, gracia que espero recibio de la bondad de V. E. jurando no ser de malicia y lo necesario, etc.

14 Monterey, N'bre 23, de 1843.

JOSÉ JOAQ'N ORTEGA.

(3 S. D. K.)

EX'MO S'OR GOB'DOR: Por todo lo practicado en este esped'te resulta que el terreno de Pamo esta baldio y se le puede concedu à Don José Joaq'n Ortega pero bago las condiciones de no pasar de la cañada de la Ballena, y que el parage que ocupaba nombrado San José, lo deje à benificio de la mission de San Diego, como asi lo pide el R. P. Mutio Oliba, mas V. E. dispordia sobre el particular otra providencia que lo pariciero conveniente.

Monterey, 22 de N'bre, de 1843.

MAN'L JIMENO.

MONTEREY, *No'bre* 22 *de* 1843.

Espidate el titulo con los condiciones q'e pide el padre Munstro y opina el S. S'rio de valviendo el d'ho terreno q. posee y cede à la mision ospresando lo en el por escrito y firmado.

MICHELT'A.

(4 S. D. K.)

Cumplando con lo dispuesto por el s'or gob'nor hago presente q'e apesar de rio tener en mi poder ningun documento por el que se me halla concedido el terreno de S'n José, pero por el derecho q'e tengo à el tanto por la cesion q'e hizo à favor D'n Pablo, de la Portilla, como por el tiempo de seis años q'e ocupo d'ho terreno hago por la presente, una espresa manifestacion de cider á favor de la mision de S'n Diego ó del gob'no el drecho q'e tengo en el en razon de aberseme dado por tal motivo el parage de Pamo. Y pa la debida con-
15 staneia estiende la presente en Montery á 23 de *de* No'bre, de 1843.

JOSE JOAQ'N ORTEGA.

El terreno de Pamo g'l pretendo es en union de Da Eduardo Estoc y su plico al gob'no g'l au se entienda ea mi peticion f'a g'l al estenderse el titulo sea à favor de los dor.

Monterey, No'bre 23 de 1843.

JOSE JOAQ'N ORTEGA.

(5 S. D. K.)

MONTEREY, 22 *de No'bre de* 1843.

Sello cuarto—Dos reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey en el departamento de los Californias para el año de mil ochocientos cuarenta y tres.

MANUEL CASTANARES.
MICHELTORENA.

{ Ad'a mariti'a de Mont'y. (Place of eagle.) }

{ Del Place of eagle. de California. }

MONTEREY, *Nob'e* 19, *de* 1843.
Yn'fe el S. Sino del despacho de este gob'no. MICHELT'A.

Ex'mo S'or Gob'or:

El ciu'o José Joaq'n Ortega de la vecindad de S'a Diego de este departmento ante la justificacion de V. E. hago presente q'l hace 1 anos 5 mesos q'l solicite el terreno conocido por el Llano de Pamo por hollarse completamente baldio, y siu que se le haga dado des tino alguno y como el expediente q'l promovi sobre este particular se
16 hallaba corriendo los tramites acostumbrada sugun me informo el s'or prefecto de los Angeles ahora he venido a saber aqui q'l no ha llegado ni a podes del antecesor de V. E. ni a la secretario del gobierno y como el crecido numero de ganado vacuin y caballas q'l tengo padece estravios de consideracion por no tener lugar figo p'a su pastura suplico a V. E. se digne concederme el parage mencionada y si a V. E. pareciere conveniente mandar tomar alg's informes lo merecere mande se me espida una licencia provisional susetandome al resultado del espediente, gracia que espero conseguir

(7 S. D. K.)

de V. E. Ex'mo, jurando no ser de malicia y lo necesario.

JOSE JOAQ'N ORTEGA.

Monterey, Nov'bre 18 de 1843.

S'R GOBERNADOR: Puede pasar esta solicitud al R. P. Mat'so de San Diego y al Juez del propio lugar pa q'l informer si el terreno que se pretende se podra conceder por no hacerle falta a la mission y como el interesado se sugeta al resultado del esped'te parece que no hay inconveniente pa q'l se le estienda una licencia provisional; pero la determinacion de V. E. sera la mas acertado.

[L. S.] MAN'L JIMENO.

Monterey, 21 de No'bre de 1843.

MONTEREY, *Noviembre* 21 *de* 1843.

(8 S. D. K.)

Siempre que como dice el interesado el terreno este valdio, y no sea necesario ocuparlo actualmente a la mision, entiendase concedido el permiso provisional q'l pido, sugetandose al resultado del
17 espediente, a cuyo efecto pasara a informe del M. R. R. Min'tro de la Mision de San Diego quien lo verificara teniendo presente el decreto de este gobierno sobre debulusion de missiones.

MICHEL'TA.

(9 S. D. K.)

Manuel Micheltorena, g'ral de brigada del ejercito Mejacano, ayudante g'ral de la plana mayor del mismo gobernador, comandante g'ral é ynspector del departamento de las Californias:

Por cuanto D'n José Joaq'n Ortega ha pretendodo en union de D'n Eduardo Stokes para sus beneficios personales y los de sus familias el terreno conocido con el nombre del Balle de Pamo, colindante con S'ta Ysabel, con el pueblo de San Pascual, y el cajon de Sante Monica sin internase á la Cañada de la Ballena comprendiendo en este concesion el aguze nombrado nuevamente S'ta Tevesa tomando por lindero el arroyo que forma el Rio de San Dieguito, practicadas previamente las diligencias y averignaciones consernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son con-

(10 S. D. K.)

feridas á nombre de la nacion Mejicana, he venido en concederle el terreno mencionado, declarandole la propriedad de el p'r las presentes letras, sugetandose á la aprabacion de la ex'ma asamblea departamental.

1o. Podrà cercarlo sin perjudicar las travesias caminos y servidumbres, lo disfrutara libre y esclusivamente destinandole al uso ò cultivo que mas le acomode, pero dentro de un año fabricará casa y está habitada.

2o. Solicitara del juez repectivo que les de posesion juridica en virtud de este despacho pe el cual se demarcaran los linderos
18 en cuyos limites pondrá á mas mojoneras algunos arboles frutales ò silvestres de alguna utilidad.

3o. El terreno de que se hace donacion es de cuatro citios de ganado mayor poco mas ò menos segun esplica el diseño q'e agregado corre en el esped'te respectivo.

El juez que decre la posecion lo hara medèr conforme á ordenanza quedando el

(11 S. D. K.)

sobrante que resulta á la nacion para los usos convenientes.

4o. Si contraviniere á estas condiciones perderá su derecho al terreno y serà denunciable p'r o'tro.

En consecuencia mando que teniendose p'r firme y valedero este titúlo, se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á viente y cinco de N'bre de mil ocho cientos cuarenta y tres.

(12 S. D. K.)

Año de 1842.

Espediente promovido por el vecino de S. Diego, D'n Joaquin Ortega en solicitud del parage nombrado Llano de Pamo.

19 (13, S. D. K.)

S. JUAN, *Julio* 5, 1843.

Prefectura del segundo distrito:

De conformidad con las leyes y reglamentos de la materia informe el juez de paz de S. Diego, si el parage del Llano de Pamo corresponde á alguna corporacion, comunidad ó particular, si esta valdió; si el pretendiente tiene bienes pa. cubrirlo y demas requisitos pa. ser atendido, si este compendido en las 1o. leguas litorales ó 2o. limitrofes. Con todo lo demas p'e le paresca conveniente á ilustrar la materia y evacuado este informe pase el espediente al p min'tro de la mission de S. Diego pa. q'e pro-

(14 S. D. K.)

dusca el suyo en cuanto á aquilla comun'd y vuelva el esped'te á este prefect'a p'r los usos
20 q'e estimen covenientes.

ARGUELLO.

S'or Prefecto del 2o. Distrito:

José Joaq'n Ortega, Mejicano por nacimiento y vecino de esta municipalidad como mas haya lugar en derecho ante V. E. hace presente que teniendo un numero de ganado vacuna y caballar capez de poderlo fomentar pa. el susten de su crecida familias y no teniando un sitio en donde ponerlo, pide el Llano de Pamo perteneciente á la mision de S'n Diego y distantes de ella como leguas, el que se halla baldio como siempre lo ha estado, dicho sitio es temporal y no de regadio, como se verá en el diseño q'e acompaña el que consta de cuatro sitio de ganado mayor. Por tanto A. V. S. suplico se sirva admitir esta en papel comun por falta del sellado correspond'te en este lugar, protestando no ser de malicia y lo necessario.

Puerto de S'n Diego, Junio 18 de 1842.

JOSÉ JOAQ'N ORTEGA.

El Llano de Pamo pertenece á este mision de S'n Diego, es verdad que en la actualidad esta valdio pera algun dia se cubrira, y para yo no gravar mi conciencia, advierto dos puntos; 1o, que no se entre el interesado ni una vara á la cañada de la Ballona para el rùnebo de S'ta Ysabel; 2o, puerto q'e el interesado ceda el sitio que actualmente ocupa llamado San José á beneficio de la mission, con estas dos condiciones, se le puede conceder, y si no conviene en ellas en ynteresado, yo tan poco puede ceder á que se le conceda, es cuanto puedo informar y decir.

Micion de San Diego, Julio 7 de 1842.

F. VICENTE PASQUEL OLIVA.

(15 S. D. K.)

S'n Diego, *Ag'to 7 de* 1842.

En cuanto al parage del Llano de Pamo es un parage baldio, que nunca se ha ocupado ni cuando tenia bienes la mision de S'n Diego que es é donde pertenese d'ho parage; el solicitante tiene bienes con que cubrirlo, el mencionado parage dista de la d'ha mision como doce leguas es cuando puedo informad.

F. ANT'O GANZORA.

(16 S. D. K.)

Ex'mo S'or: Mandados practicar los informes de estilo á consecuencia de la solicitud del vecino de San Diego, D'n Joaquin Ortega del Llano de Pamo se adverte q'e el p. min'ta de aquella mision
21 informe q'e pertenece á ella aquel parage y demas condiciones qe. asienta. Esta prefectura no puede concebir q. derecho pueda esta mision tener á un parage distante como doce leguas, y que anu en tiempo qe. la mission tenia bienes no lo ocupaba, amas qu. le queda desde la Ballona S'ta Ysabel el espaeio de ocho leguas q. podrá ocupar, como dice algun dia. El valle de S'n José qe. actualmente ocupa el interesado dista de la mision veinte y dos leguas, y no se p'r qe. se considera una mision sui ningunos bienes estenderse á tanto terreno solo pr. qe. crusa el camino pr. S'ta Ysabel pr. este Llano de Pamo y como a tres leguas de distancia con el Norte de S'ta Ysabel, queda el valle de S. José.

Hago esta Puña de aguellos sitios por conveniento de V. E por el que de ellos tengo, y con el fin de que como el interesado es ms hermano politica V. E. en vista de este informe, y el del juez de paz de S'n Diego se servira resolver lo que fuere de su superior agrado.

Ang's, Agosto 12 de 1842.

S. ARGUELLO.

(Here follows a map, marked 17 S. D. K.)

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such, now having in my office and
22 under my charge a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the seventeen preceding and hereunto annexed pages of tracing paper, numbered from one to seventeen inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,)
[L. S.] at the city of San Francisco, Cal., the 20th day of May, 1842.

(Signed) SAM'L D. KING,
Surv. Gen'l Cal'a.

Filed in office September 10th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

23 *Document "H. H. No. 1," annexed to the deposition of Abel Stearns.*

"H. H. No. 1."

Sello segundo—Cuatro pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey en el departamento de las Californias para el de mil ochocientos, cuarenta y tres.

MANUEL CASTANARES.
MICHELTORENA.

{ Ad'a marit'a de Monterey. Place of eagle. } Manuel Micheltorena general brigada del ejercito Mejicano ayudante general de la plana mayor del mismo, gobernado, comandante g'ral ynspector é del departamento de las Californias.

Por cuanto Dn. José Joaquin Ortega ha pretendido en union de Dn. Eduardo Stokes para sus beneficios personales y el de sus familias el terreno conocido con el nombre del Balle de Pamo, colindante con Sta. Ysabel, con el Pueblo de San Pascual, y el Cajon de Santa Monica sin intenasse á la Cañada de la Ballena comprendiendo en esta concesion el aguage nombrado nuevamente Sta. Teresa tomande por liudero el arroyo que forma el Rio de San Dieguito; practicadas previamente las diligencias, y averiguaciones consernientos segun lo derpuesto por leyes y reglam'tos de la materia, usando de las facultados que me son conferidas á nombre de la nacion Mejicana ha venido en concederles al terreno mencionado declarandoles la propiedad de el por las presentes letras, sugetandose á la aprbacion de la exm'a assemblea departmental y á las condiciones siguientes.

1o. Podra cercarlo sin perjudicara las travesias caminos y servidumbres, disfrutaran libre y esclusivamente destinandalo al uso ó cultivo que mas le acomode pero dentro de un año fabricara casa y estara habitada.

24 2o. Solicitara del Juez respectivo que le de posecion juridica en vistud de este despacho por el cual se demarcaran los linlinderos en cuyos limites pondr'n á mas de los mojoneros algunos arboles fratales ó silvestres de alguna utilidad.

3o. El terreno de que se hace donacion es de cuatro sitios de ganado moyor poco mas ó menos segun esplica el deseño que agregado corre en el espediente respectivo. El juez que diere la posecion, lo hará medir conforme á ordenanza que dando el sobrante que resulta á la nacion para los usos que mas les convengan

4o. Si contraviniere á estas condiciones perderá su derecho el torreno, y será denunciable por otro.

5o. No podrá vender enagenar hipotecar ó por.

En consecuencia mando que teniendose por firme y valedero este titulo, se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey á vente y cuero de Noviembre de 1843.

(Signed) MAN'L MICHELTORENA.
(Signed) MAN'L JIMENO.

Queda tomada razon de este despacho en el libro respectivo á f's 3.
(Signed) JIMENO.

Filed in office October 27th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

(Here follows map, p. 24.)

26 *Espediente at the instance of Don José Joaquin Ortega, who solicits the place named Balle de Pamo, No.* 325.

Seal fourth—Two reales.

[SEAL.] Provisionally authorized by the maritime custom-house of the port of Monterey, of the department of Californias, for the year 1843.

MICHELTORENA.
MANUEL CASTANARES.

MOST EXCELLENT SIR: José Joaquin Ortega, resident of San Diego, in this department, before the well known justice of your excellency, presents himself, and says that the espediente to which I referred in my petition of the 18th of the present month, which I have obtained, and which I herewith transmit to your excellency, in order that, being informed of all that has been done in regard to it, your excellency may be pleased to see that there is no inconvenience in issuing to me the title of the land named Pamo, a favor which I hope to

an order of the said court confirming a sale of mortgaged premises, and directing Daniel Gantt to make a deed of said premises to the purchaser, and the said appellants having in said court, and on the rendition of said order, claimed an appeal from said order to the Supreme Court of the United States, which was then and there entered, and allowed :

Now, the condition of this obligation is such, that if the said appellants shall prosecute their said appeal to effect, and answer all damages and costs if they fail to make their said appeal
17 good, then the above obligation to be void; otherwise to remain in full force and virtue.

A. R. ORCHARD.
JOEL T. GRIFFIN.

Sealed and delivered in presence of—
JAMES M. WOOLWORTH.

Approved by—

WM. P. KELLOGG,
Chief Justice, N. T.

TERRITORY OF NEBRASKA,
County of Douglas, ss:

Joel T. Griffin, being duly sworn, says he is worth two thousand dollars over and above all his debts, to the best of his knowledge and belief.

JOEL T. GRIFFIN.

Subscribed and sworn to this 27th day of August, 1863.
[SEAL.] J. R. MEREDITH,
Notary Public.

18 THE TERRITORY OF NEBRASKA,
Douglas County, ss:

I, J. H. Kellom, clerk of the supreme court of the Territory of Nebraska, do hereby certify that the foregoing transcript is a true and faithful copy of so much of the original records on file in this office as I was requested to make.

[SEAL.] Witness my hand and official seal, at Omaha, this 3d day of December, A. D. 1863.

J. H. KELLOM, *Clerk.*

Filed 26th December, 1863.

receive from the goodness of your excellency, swearing that it is not in malice, but that it is necessary, &c.

Monterey, No'bre 23d, 1843.

JOSÉ JOAQUIN ORTEGA.

In the margin:

MONTEREY, *Nov.* 22*d*, 1843.

In virtue of what is alleged anew by the interested party, let the senior secretary report, in view of the whole, the conditions, the manner, and circumstances under which it may or not be acceded.

MICHELT'A.

To his Excellency the Governor:

From what has been done in regard to this expediente it results that the land of Pamo is vacant, and it may be granted to Don José Joaquin Ortega, but the conditions not to go beyond the gulch (cañada) de la Ballena, and that the place which was occupied, named San José, which was given for the benefit of the mission of San Diego, as it was thus asked for by the rev'd father
27 minister Oliva; but your excellency will make such other disposition in this particular as may appear convenient.

Monterey, 22d Nov., 1843.

MAN'L JIMENO.

MONTEREY, *November* 22*d*, 1843.

Let the title be issued under the conditions as asked for by the father minister, and as the senior secretary thinks, returning the said land that it may be passed and ceded to the mission, expressing it by writing and signature.

MICHELTORENA.

Complying with the disposition made by the señor governor, I make known that, notwithstanding there not being in my possession any document by which it is shown that the land of San José was granted but by the right which I have to it, as well by the grant which Dr. Pablo de la Portetta made in my favor as by the time of six years that I have occupied said land, I make known, by these presents, an express manifestation of granting, in favor of the mission of San Diego, or of the government, the right which I have to the land mentioned, without having in future a right to it, by reason of the having been given to me for such motive the place of Pamo; and in testimony whereof, I give these presents in Monterey, on the 23d of November, 1843.

JOSE JOAQUIN ORTEGA.

Again. The land of Pamo, which I petition for, is in union with Dr. Edward Stakes, and I supplicate the government that it is so understood that the title may be in favor of both of us.

Monterey, No'ber 23d, 1843.

JOSE JOAQUIN ORTEGA.

28 To his Excellency the Governor :

[SEAL.] [SEAL.] The citizen José Joaquin Ortega, of the vicinity of San Diego, in this department, before the well known justice of your excellency, presents himself, and says that it has been one year and four months since he solicited the land known as the plain of Pamo, on finding it completely valid and without being put to any purpose; and as the espediente which was made out at my instance upon this particular matter and passed through the customary steps, as the señor prefect of Los Angeles informs me, I have now learned that it cannot be found, either in the possession of your excellency's predecessor, or in the office of the sec't'y of the gov'nt, and as the increased number of the stock of cattle and horses which I have strays away, from the fact of there being no fixed place for their pasturage, I pray your excellency to deign to grant me the place mentioned; and if it should appear to be proper to your excellency to order some information to be taken, I will thank you to cause a provisional license to be issued to me, subject to the result of the expediente, a favor which I hope to obtain from your excellency, swearing that it is not in malice, but that it is necessary.

Monterey, No'ber 18th, 1843.

JOSE JOAQUIN ORTEGA.

SEÑOR GOVERNOR : Let this petition pass to the rev'd father minister of San Diego and to the judge of the proper place, that they may inform whether the land which is solicited can be conceded so as not to do injury to the mission, and as the interested person is subjected to the result of this expediente, it appears that there is no inconvenience in extending a provisional permission, but the
29 determination of your excellency will be the best.

Monterey, 21st Nov., 1843.

MANUEL JIMENO.

DEC'MBRE 21*st*, 1843.

Inasmuch as the interested party says the land is vacant, and that it is not actually necessary for it to be occupied by the mission, and learning that the provisional permission has been granted as sought, he subjecting himself to the result of the expediente, for which purpose let it be passed for the information of the rev'd padre minister of the mission of San Diego, who will execute it, having in view the decree of this government upon the of missions.

MICHELT'A.

Manuel Micheltorena, brigadier general of the Mexican, adjutant general of the general staff of the same. governor commandant general and inspector of the department of the Californias :

Whereas Don José Joaquin Ortega has made application, in common with Dr. Edward Stakes, for their personal benefit, and that of their families, for the land known as del Balle del Pamo, bounded by S'n

Isabel, by the pueblo of San Pasquel, and by the casson Santa Moreeca, without trespassing upon the glen (Cañada) de la Balleno, comprehending in this concession the watering place newly named Sta Teresa, taking for its boundary the arroyo which forms the roca of San Dieguito, the steps and inquiries concerning it being personally made according to the disposition made by the laws and regulations of the water, using the faculties conferred upon me, in the name of the Mexican nation, I have come to concede to him the land mentioned, declaring in him the ownership of it by these present
30 letters, it being subject to the approbation of the most excellent departmental assembly, and to the following conditions :

First. He may enclose without prejudice of the crossings, roads, and servitudes ; he shall enjoy freely and exclusively, destining it to the use or cultivation which best suits him ; but within one year he shall build a house, and it shall be inhabited.

Second. He shall solicit the respective judge to give him judicial possession by virtue of this despatch, by whom shall be marked the boundaries, in the limits of which he shall place, besides landmarks, some fruit trees or forest trees of some utility.

Third. The land of which donation has been made, is of four square leagues, a little more or less, as is shown by the map annexed to the respective expediente. The judge who shall give the possession shall cause it to be measured conformably to the ordinance, leaving the surplus which may result to the nation for its convenient uses.

Fourth. If he contravenes these conditions, he shall lose his right to the land, and it shall be denounceable by any other. Wherefore, I command, that holding as firm and valid this title, only to be made in the proper book, and to be delivered to the interested person for his security and other ends.

Given in Monterey on the 25th of Nov., 1843.

Senior Prefect of the 2d District:

Jose Joaquin Ortega, native of born Mexican, and resident of this municipality, as he is permitted by favor, represents to your excellency, that having a number of stock of cattle and horses, and wishing to be able to augment them for the support of his increased family, not having a place to put them, he asks for the plain of Pamo, belonging to the mission of San Diego, and distant from there
31 about two leagues, which is vacant, as it always has been.

Said place is of temporal and not irrigable, as you will perceive by the design which accompanies it; the same consists of four sitios of large cattle. Wherefore I beseech your excellency to admit this on common paper, for the want of corresponding seal paper in this place, protesting that it is not in malice, but that it is necessary.

Port of San Diego, June 18th, 1842.

JOSE JOAQUIN ORTEGA.

(In the margin.) PREFECTURE OF THE 2D DISTRICT,
San Juan, July 5, 1842.

In conformity with laws and regulations of this matter, let the justice of the peace of S. Diego report if the place of the plain of Pamo belongs to any corporation, community, or individual; whether it is vacant; whether the claimant has stock to cover it, and the other requisites necessary to be had; whether it is comprised in the 10 littoral leagues, or the 20 border leagues, with all the rest that may appear proper to illustrate the matter; and having given this information, let the expediente pass to the father minister of the mission of San Diego, in order that he may assert his own rights as far as it relates to that community, and let him return the expediente to this prefecture for the uses which he may deem proper.

ARGUELLO.

The plain of Pamo belongs to this mission of San Diego. It is true that actually it is vacant, but some day it would be occupied, and that I may not conscience, I will revert to two points. First. That there is not one vara between the interested person and the canada of Ballena, in the direction of Santa Isabel. Second point. That the interested person yields the place he occupies, called
32 San Jose, for the benefit of the mission. With these two conditions it can be granted him; and if the interested person should not agree upon them, neither can I agree that it be granted to him. So far can I report and say.

Mission of San Diego, July 7th, 1842.

FR. VICENTE PASQUAL OLIVA.

SAN DIEGO, *August 7th*, 1842.

In regard to the place of the Plain of Pamo, it is a vacant place; that it has never been occupied by the mission of San Diego, not even when it had stock. To whom, then, does said place belong? The petitioner has stock with which he can cover it. The mentioned place is distant from said mission about twelve leagues. This is all the information I can give.

JOSE ANT'O GONGORA.

MOST EXCELLENT SEÑOR: The customary information commanded to be made of the petition of the resident of San Diego, Don Joaquin Ortega, of the plain of Pamo: It is perceived that the father minister of that mission reports that that place belongs to it, and besides the conditions agreed upon, this prefecture cannot conceive what right this mission can have to a place distant about twelve leagues, and that even when the mission had stock, it did not occupy it; and, besides that, there is from the Ballena to S'ta Isabel, the space of eight leagues, which it could occupy.

The valley of San Jose, which the interested party actually occupies, is distant from the mission twenty-two leagues; and I know not how a mission without stock should claim to extend itself over

1585-

33 so much isolated land. Why it should cross the road of S'ta Isabel by this plain of Pamo, and how, at three leagues distant to the north from S'ta Isabel, it should want the valley of San Jose? I make this plan of those sitios for the knowledge of your excellency, the same that I have of them, and with the end that as the interested person is my brother officer, that your excellency, in view of this report and that of the justice of the peace of San Diego, may be pleased to determine, according to your superior pleasure.

Angeles, August 12th, 1842.

S. ARGUELLO.

Filed in office Sept. 10th, 1852.

GEO. FISHER, *Sec'y.*

34 *Document H. H. No.* 1, *annexed to the deposition of Santiago Arguello.*

H. H. No. 1.

El Rev'a F'r F'r Vicente Oliva, como Min'tro Apostolico de la mision de S. Diego y el ciud'no Joaquin Ortega del junto de el mision nombre y propritario del rancho de S. José hace convenido reciprocamente y ante los testigos de asist'a q. ignalmente firman el presente documento lo siguiento

El R. F. F. Vicente cede á favor del P. Ortega cuatro sitios de ganado mayor, comprendidos deide los aguajitos, entrada del llano de Pamo, hasta la cuerta de la Salera, tomando de este punto linea recta á la rancheria de Comagal, quedando libre toda la cañada de la Ballena á beneficio de la mision; y el emuciado Ortega en retribucion cede á la referida mision de S. Diego el Valle de S. José pr. qe. baga de el el uso que le convenga. Y para la debida constancia y que este documento tenga el valor necesario lo firmaron los contratantes y testigos en S. Diego á veinte y May'r de mil ochocientos cuarenta y tres.

JOSE JOAQ. ORTEGA.
F. VICENTE PASCUAL OLIVA.

Como testigos: JULIO OSUNA.
JUAN M'A MARRON.

Filed in office November 10th, 1852.

GEO. FISHER, *Sec'y.*

35

36 The Reverend Father Friar Vicente Oliva, as apostolic minister of the mission of San Diego, and the citizen Joaquin Ortega, of the post of the same name, and proprietor of the rancho of San José, have reciprocally agreed before the present witnesses, who also sign this document, as follows :

The Reverend Father Friar Vicente cedes in favor of Señ'r Ortega four square leagues comprised between Aguajites, entrance of the

plain of Pamo to the hill of the Salvia; drawing from this point a straight line to the rancheria of Comijal, leaving free the whole of the cañada of the Bellena, for the benefit of the mission; and the above-named Ortega, in retribution, cedes to the above-named mission of San Diego the valley of San José, to put the same to the use most convenient to the said mission. And in testimony whereof, and for the purpose of giving to this document due force, the contracting parties and witnesses sign the same in San Diego, the twentieth day of May, one thousand eight hundred and forty-three.

JOSE JOAQUIN ORTEGA.
FR. VICENTE PASQUAL OLIVA.
JUAN M'A MARRON.

Comsteoteges : JULIO OSUNA.

Filed in office Sept. 10th, 1852.

GEO. FISHER, *Sec'y.*

37 *Opinion of the board by Com'r A. Felch.*

JOSE JOAQUIN ORTEGA *vs.* THE UNITED STATES. } For the place called "Valle de Pamo," in San Diego county, containing four square leagues of land.—332.

A grant issued by Governor Manuel Micheltorrena to Jose Joaquin Ortega, the present claimant, and one Edward Stokes, is given in evidence. The proof shows that said Stokes died in 1847, leaving a widow and children. The premises were occupied and improved by the grantees. The present claimant alleges that he is the duly appointed administrator of his co-grantee, and he solicits a confirmation of the premises to him, one undivided half in his own individual right as grantee, and the other half in his representative character as administrator.

The grant concedes to the grantees four square leagues of land, requiring judicial measurement to segregate it from the tract of land belonging to the nation which is designated in the grant. A judicial measurement is referred to by one of the witnesses, the testimonial of which is filed in another case, (case No. 239.) The party has neglected to make this document evidence in this case. If introduced, however, it would not aid the title, for on examination it is found not to present any intelligible idea of the lands intended to be assigned under this grant. The witness Foster states what he understands to be the boundaries of the place, but whether the land he describes corresponds with that which is intended to be described in the judicial measurement, or whether the premises described by other of them are within or without the limits of the land within which the location was to be made, we are unable to ascertain. It is very possible that by careful preparation, or by a survey, proofs may be afforded in aid of the testimonial of judicial measurement above mentioned, which may identify the land assigned under the grant. But under
38 the evidence now before us, it is not possible to assign to the

premises any proper limits, boundaries, or location. For this reason the claim must be rejected.

Rejected.

Filed in office Sept. 19, 1854.

GEO. FISHER, *Sec'y.*

JOSE JOAQUIN ORTEGA *vs.* THE UNITED STATES. } 332.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office Sept. 19, 1854.

GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other to be transmitted to the Attorney General of the United States.

39 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary of the board of commissioners to ascertain and settle private land claims in the State of California, do hereby certify the foregoing thirty-six pages, numbered from 1 to 36, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 332 on the docket of said board, wherein Jose Joaquin Ortega *et al.* are the claimants against the United States, for the place known by the name of "Valle de Pamo."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this thirty-first day of January, A. D. 1855, and of the independence of the United States of America the seventy-ninth.

[SEAL.]

GEO. FISHER, *Sec'y.*

Filed February 5th, 1855.

C. E. CARR, *Clerk.*

40 *Appeal notice.*

United States district court, southern district of California.

Notice of the intention to prosecute the appeal from the decision of the board of United States land commissioners.

JOSE JOAQUIN ORTEGA *et al.*, appellants,
vs.
THE UNITED STATES, appellees.

José Joaquin Ortega, and Refugio Stokes, and Adolpho, Alfredo and Edward Stokes, claimants of the rancho called "Valle de Pamo," situated in the county of San Diego, in the southern district of the State of California, hereby give notice of their intention to prosecute an appeal from the decision of the board of U. S. land commissioners, appointed to ascertain and settle private land claims in the State of California, rendered in their claim for the said land, which was presented to the said board of commissioners and by them rejected. Their claim, being that which is numbered on the docket of said board of commissioners No. 332, the transcript whereof is filed in the office of the clerk of the district court of the United States for the southern district of California, is numbered 195.

AGUSTIN OLVERA,
Attorney in fact.

Filed March 31st, 1855.

C. E. CARR, *Clerk.*

41 *Notice of appeal.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, D. C., 7th April, 1855.

JOSE JOAQUIN ORTEGA *et al.*
vs.
THE UNITED STATES. } 332.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, a transcript of the proceedings in which was received in this office on the 27th day of January, 1855, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed July 2d, 1855.

C. E. CARR, *Clk,*
By A. H. CLARK, *Dep'y.*

42 *Notice of appeal.*

In the district court of the United States for the southern district of California.

JOSE JOAQUIN ORTEGA and heirs of EDWARD STOKES
vs.
THE UNITED STATES. } No. 195.

To the clerk of the said United States district court:

You will please take notice that the above claimants for the rancho of "Valle de Pamo," (or Santa Maria,) containing four square leagues, and situated in the county of San Diego, intend to prosecute the appeal from the decision of the board of United States land commissioners to ascertain and settle private land claims in the State of California rejecting said claim, said claim being numbered 332 on the docket of said board, and said claim having been rejected by said board on the 19th day of September, 1854.

Yours, &c.,
THOS. W. SUNDERLAND,
Att'y for Claimants.

Filed 21st July, 1855.

C. E. CARR, *Cl'k*,
By A. H. CLARK, *Dep'y.*

43 *Notice of appeal.*

In the clerk's office of the United States district court for the southern district of California.

JOSE JOAQUIN ORTEGA and the heirs of EDWARD STOKES, dec'd,
vs.
THE UNITED STATES. } No. 195.—(Transcript No. 332.)

You will please take notice that in the above-entitled case, decided by the commissioners to ascertain and settle private land claims in the State of California, decided against the claimant, and a transcript of the proceedings of which was filed in this office on the 5th of January, 1855, the appeal in the district court of the United States for the southern district of California will be prosecuted by the above-named claimants.

JOSE JOAQUIN ORTEGA, and the
heirs of EDWARD STOKES, dec'd,
By THOS. W. SUTHERLAND, *Att'y, &c.*

Filed Oct. 10th, 1855.

C. E. CARR, *Clerk*,
By J. W. ROSS, *Dep.*

44 *Leave to take further testimony.*

In the district court of the United States for the southern district of California.

JOSE JOAQUIN ORTEGA *et al.*, appellants, *vs* THE UNITED STATES, appellees. } Case No. 195.—"Valle de Pamo."—Transcript 332.

And now on this day, on motion of Myron Norton, attorney for the appellants, it is ordered by the court that either party in this case have leave to take testimony therein.

Filed Oct. 20th, 1855.

C. E. CARR, *Clerk*,
By T. W. ROSS, *Dep'y.*

45 *Deposition of Jose Jesus Moreno.*

JOSE JOAQUIN ORTEGA *et al.*, appellant, *vs.* THE UNITED STATES, appellee. } No. 195.

Deposition of Jose Jesus Moreno, a witness on the part of the appellants, taken before me, Charles E. Carr, U. S. commissioner for the southern district of California, at the city of Los Angeles, October the 27th, A. D. 1855, to be read in evidence on the trial of said cause.

Present: P. Ord, U. S. attorney; Myron Norton, attorney for appellants. Miguel Smith was sworn as interpreter.

Jose Jesus Moreno, being by me first duly sworn, to the questions of the attorneys for the several parties answers as follows:

Quest. What is your name, age, and place of residence?

Ans. My name is Jose Jesus Moreno; my age is forty-five years; and I reside in the county of San Diego.

Quest. Do you know the rancho called Santa Maria or Valle de Pamo; and if so, where is it situated?

Ans. I know the ranch. It is situated in the county of San Diego.

Quest. State if said rancho has been occupied. If so, in what manner, by whom, and since what time?

Ans. It was occupied by Jose Joaquin Ortega and Edward Stokes, with a house, cattle, horses, and sheep; a portion of the land was cultivated. These parties occupied the land before the act of judicial possesion, and it is still occupied by the cattle of Ortega or the widow Stakes.

Quest. Did you know Edward Stokes during his lifetime?

Ans. I did.

46 Quest. When did he die?

Ans. About the year 1846 or 1847.

Quest. Did he leave a widow and children? If so, state their names.

Ans. I know that he left a widow and children. The widow's name is Refugio Ortega. The names of the children are Adolfo, Edwardo, and Alfredo.

Cross-examined by the U. S. dist. att'y.

Quest. Do you know the distance from Santa Maria to Santa Ysabel; and if yea, how far is it?

Ans. About seven leagues.

Quest. How far is it from Santa Ysabel to the Valcan?

Ans. About two leagues.

Quest. How far is it from the Valcan to San Pasqual?

Ans. About eight or nine leagues.

Quest. How far is it from San Pasqual to Santa Monica?

Ans. About five or six leagues.

Quest. Where is Santa Monica?

Ans. It is between San Pasqual, San Vicente, Santa Monica, and Santa Ysabel.

Quest. In what direction is San Pasqual from Santa Monica?

Ans. Almost north.

Quest. In going to Santa Monica, to the Valcan, in what direction do you go?

47 Ans. About northeast.

Quest. In what direction is the Valcan from San Pasqual?

Ans. Almost due east.

Ques. How far is it from San Pasqual to San Felippe?

Ans. About thirteen or fourteen leagues.

Quest. How far is it form the Cañada de la Ballena to Santa Ysabel?

Ans. About two leagues.

Quest. How far is it from Santa Ysabel to San Jose?

Ans. About eight miles.

Quest. How far is it from the arroyo of San Diegito to the aguage of Santa Teresa?

Ans. About two miles.

JOSE M. J. MORENO.

Sworn to and subscribed before me this 27th day of October, A. D. 1855.

C. E. CARR,
U. S. Commiss'r.

Filed Oct. 27th, 1855.

C. E. CARR, *Cl'k.*

48 *Petition of appellants for review.*

Petition on appeal from the United States board of land commissioners.

To the honorable the United States district court for the southern district of California.

JOSE JOAQUIN ORTEGA *et al.*, appellants,
vs.
THE UNITED STATES, appellees.
} Case No. 195.—"Valle de Pamo."

The petition of José Joaquin Ortega. for himself and for Refugio Ortega de Stokes, Adolfo Stokes, Alfredo Stokes, and Edwardo Stokes, heirs of Edward Stokes, deceased, respectfully show to this honorable court:

That on the tenth day of September, A. D. 1852, he filed a petition before the United States board of commissioners to ascertain and settle private land claims in California, when sitting as a board, asking for a confirmation of the tract of land granted to him; and the said Edward Stokes, on the twenty-fifth day of November, A. D. 1843, by Manuel Micheltorena, governor of California, as more particularly described in the grant, record of juridical possession, and map; copies of which said originals were afterwards produced and duly proved before said commission.

That afterwards, to wit, on the 19th day of September, A. D. 1854, the said board of commissioners decided upon the validity of the petitioners' said claim, and rejected the same.

That on the fifth day of February, A. D. 1855, the transcript of the proceedings of said board of U. S. commissioners was filed in the office of the clerk of the United States district court for the southern district of California, and that a notice of the intention of the
49 claimant to prosecute an appeal from the decision of the board of commissioners in their claim, for said land, was filed in the office of said clerk on the 31st March, A. D. 1855.

The petitioner further shows that the lands claimed are situated in the county of San Diego, and in the southern district of California.

Your petitioner prays that the transcript of the report of said board of commissioners on the claim presented to them as aforesaid, and the documentary evidence and testimony of witnesses on which it was founded, which is filed with the clerk of this court, may be held and considered as a part of his petition; and your petitioner, appealing from the said board of commissioners, presents this petition to the honorable the district court for the southern district of California, being the district court of the district in which the land is situated; and they pray this honorable court to review the said decision of said board of commissioners, and to reverse it, and to confirm their title to the said lands, and decree the same to be good and valid; and for such other and further relief in the premises as shall be just and equitable.

NORTON & OLVERA,
Att'ys for Appellants.

Filed Oct. 27th, 1855.

C. E. CARR, *Cl'k.*

50 *Answer of U. States to petition for review.*

In the district court of the United States for the southern district of California.

JOSE JOAQUIN ORTEGA *et al.* *vs.* THE UNITED STATES. } No. 195.—"Valle de Pamo."—Trans. No. 332.

The answer of Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States,

to the petition for review of José Joaquin Ortega and Refugio Ortega de Stokes, Adolfo Stokes, Alfredo Stokes, and Edwardo Stokes, says: that he denies all and singular each and every allegation in said petition; and respondent's further answer denies generally the *the* validity of the alleged claim or title of said petitioners to the lands referred to in their said petition. And said respondent prays that the decision of said board of commissioners may be affirmed, and the title of said claimants be deemed invalid, with costs and general relief.

P. ORD,
U. S. Dist. Att'y, S. Dist., Cal'a.

I have served this answer on A. Olvera, attorney for the parties, by delivering a true copy of the same at Los Angeles, Dec. 27th, 1855.

EDWARD HUNTER,
U. S. Marshal,
P'r M. L. GOODMAN, *Deputy.*

Filed Oct. 27, 1855.

C. E. CARR, *Cl'k.*

51

52 *Approval by dep't assembly.*

Ex'mo S'or: José Joaquin Ortega y Edwardo Stokes vecinos de la demarcacion de San Diego ante V. E. en la mas bastante forma y como mas haya lugar en derecho comparecemos y decinios que teniendo concedido por el superior gobierno del departmento las parages de S'ta Ysabel, y Valle de Pamo, ad juntamos los titulos de dhos parages, para que en vista de V. E. se debe á la ex'mo junta departmental haber se tiene á bien aprobarlos, como requisito indispensable, y para mas seguridad de nuestros intereses. Por tanto a V. E. suplicamos haya come pedimos en lo que recibimos, gracia, juramos no ser de malicia y lo necessario, &c. Sirviendose admiter la presente en papel comun por fatta del sellado respectivo.

JOSÉ JOAQUIN ORTEGA.
EDWARDO STOKES.

Angeles, *Junio 20th de* 1845.

Dado cuenta á la ex'mo asamblea en sesion de hoy con esto se mando pasar á la comision de terrenos valdia accompañado los espedientes respectivos.

PIO PICO, *Presid'te.*
AUGUSTIN OLIVERA, *Sc'rio.*

La comision de terrenos valdios se ha impuesta con el detenimiento necesario los expedientes promovidos á consecuencia de las solicitudes hechas p'r los ciudadanos mejicanos por nacimiento José Joaquin Ortega y por naturalization Edwardo Stokes en pretencion de los parages conocido con los nombres de Valle de Pamo y Santa Ysabel los cuales se los con cedieron por el superior gobierno del departamento en titulor librados el 1o confeeha 5 de Noviembre de mil ochocientos cuarenta y tres, y el segunda con la de nuene de Noviembre de mil ochocientos cuarenta y cuatro y resultando del esamen

equitado p'r la comision ql las espresadas conceciones fueron
53 heeas á virtud de lo que sobre la particular disponen las leyes esta sugeta á la deliberacion de V. la seguiente propocicion.

Se aprueba las concesiones hechas en favor de los ciudadanos mejiconos p'r nacimiento José Joaquin Ortega y p'r naturalizacion Edwardo Stokes de los parages nombrados, Valle de Pamo y S'ta Ysabel concididos la p'r pudad p'r el superior gobierno departmental en titulo librado el 1a con f'ho de No'bre de 1843, y el 2o con la de 9 de N'bre 1834, y ambor concesiones en estencion de ocho sitios de ganado mayor compromiendose cada uno de castro sitios de entera conformidad con la ley de 18th de agosto de 1834, y el articulo 5 del reglamentos 21 de No'bre.

Sola de comisiones en la ciudad de Los Angeles, Junio 23 de 1845.

YGNACIO DEL VALLE.
FRAN'CO DE LA GUERRA.

ANGELES, *Junio* 23 *de* 1845.

En sesion de este dia se aproba por la ex'mo asamblea departmental la proposicion del dietamen antecedente, mandando se devulva los espediente originales, al ex'mo s'or gobernador para los fines que corresponde.

PIO PICO, *Presid'te.*
AUGUSTIN OLVERA.

En Julio, '45, se les estendio á los interesado el correspondiente comprobante del acuerdo de 25 de Junio que anteade.

COVARRUBIAS, *Sc'rio.*

54 MOST EXCELLENT SIR: José Joaquin Ortega and Edward Stokes, resident of the confines of San Diego, come before your excellency in due form and right, and appear and say that they have had granted to them by the superior departmental goverment the places called Santa Isabel and Valle de Pamo. Accompanying this is the title to said parages, so that at sight your excellency may transmit it to the most excellent departmental junta, should they think well of approving the same, as is indispensably requisite, and for the better security of our interests.

Wherefore we supplicate that your excellency will do as we request, whereby we shall receive a favor, swearing at the same time that no malicious purpose prompts this, but the necessary purpose. Also admitting this on common paper, there being no stamped paper as corresponds.

EDWARD STOKES.
JOSÉ JOAQUIN ORTEGA.

ANGELES, *June* 20*th*, 1845.

Information was taken of the most excellent assembly at its session of this day, to which they ordered that the respective accompanying espedientes should be transmitted to the commission on vacant lands.

PIO PICO, *President.*
AUGUSTIN OLVERA, *Sc'rio.*

55 MOST EXCELLENT SIR: The commission on vacant lands have informed themselves with all that is necessary in relation to the espedientes aspired, and in consequence of the requisites made by the Mexican citizen by birth, José Joaquin Ortega, and by naturalization Edward Stokes having pretiention to the parago, known by the name of Valle del Pamo by Santa Isabel, which was granted to them by the superior departmental government in titles given them. The first dated the fifth of November, 1843, and the second on the 9th of November, 1844, and the result of the equitable examination by the commission was this: that the aforementioned grants now made in virtue of the particular disposition of the laws, and to which we subject to to the deliberation of your excellency, the following proposition:

They approve of the grants made in favor of the Mexican citizen by birth, Joaquin Ortega, and by naturalization Edward Stokes, of the places called Valle de Pamo and Santa Isabel, granted in person by the superior departmental government. The first title having been given, dated the 5th November, 1843, and the second on the 9th November, 1844, and both grants comprise eight sitios de ganado mayor, comprising four sitios in each, the same having been done in exact conformity with the law of August 18th, 1824, and the fifth article of the regulations of the 21st of November, 1828.

Commission room in the city of Los Angeles, June 23d, 1845.

IGNACIO DEL VALLE.
FRANCISCO DE LA GUERRA.

56 ANGELES, *June 25th*, 1845.

At a session of this day, the most excellent departmental assembly approved of the proposition of the foregoing opinion, or decreeing that the original patent should be delivered to the most excellent sen'r governor for the ends that correspond.

AGUSTIN OLVERA, *Sec'y.*
PIO PICO, *President.*

On July, '45, the corresponding title was delivered to the parties interested, approved of in accordance with the decree of June 25, as above.

COVARRUBIAS, *Sec'y.*

I, Chas E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the above and foregoing to be a true and correct copy of a document, and its translation, as they appear in transcript 191, (Jose Joaquin Ortega *et al.* against the United States,) on file in my office.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said court, at Los Angeles, this 10th day of January, A. D. 1856.

C. E. CARR, *Clerk.*

Filed Jan'y 11th, 1856.

C. E. CARR, *Clerk.*

57

58 MONTEREY,
Octubre 18th, de 1844.
Informe el S. S'rio del despacho, visitos los informes a no ser q para.

EX'MO S'OR: José Joaquin Ortega y Eduardo Stock el primer Mejicano por nacimiento y el segundo por naturalizacion, vecinos de la jurisdicion de San Diego en este departmento de California ante V. E. respetuosamente en la mejor forma y como mas haya lugar en derecho decimos que con fecha 18 de Su'no ultimo, elevamos a la superiores manos de V. E. una solicitud en lo q'l con los requisitos de estilo suplicabamos el q'l se nos concediese el rancho parage de Femecula pertiniciente á la micion de San Luis Rey., pa convenir en aquella vez á los mejores de nuestros intereses, y sosten de las numerosas familias q'l la naturelez'n tiene bajo nuestro fedula. Sabidores hoy que hay otro pretendiente de equales ó mayores meritos que los nuestros cuya justicia reconocemos nos ha parecido conveniente retirar nuestra instancia indicada cediendo por consigniente en favor dil otro solicitante el derecho de antiquidad y dema que fuere cuestionable pa q'l ese gobierno superior sin el miramento citado obre conforme lo paresca de justicia.

Teniendo siempre presente la mantencion tacita q'l nor demanden nuestros obligaciones domesticas, nuevamente solicitamos de la benigidad y recta administracion q'l notariamente caracteriza á V. E. el q'l senos conceda de legitima prapicdad el Rancho de Santa Ysabel q'l reconece á la de la mision de San Diego con los terrenos que pa de el siempre se hau respitado constante de cuatro sitios de ganada mayor poco mas o menos en concepto de hallarse absolutamente valdio y siu probabilidad de q'l la mision pueda cultivar lo en lo adelante como lo acredita el informe de su R. P. Ministro y del Juez respectiva q'l devidamente acompañamos.

59 Nuestra integridad ex'mo s'or es bastante clara y manifiesta cuando nos hemos despreadino del derecho q'l poclia tocamos con respieto al Rancho de Temecula confirmaba ignalmente con la concession genuina del R. P. Ministro de la Mision de San Diego T'ra Vicente Oliva muy conocido por sus virtudes y integridad en este clare de negocios y por lo mismo no vacilimos en q'l gobierno departmental confiado á la persona de V. E. nos agraciara con lo q'l dejamos solicitado.

Por tanto a V. E. rendidamente supliciamos se digne decretar de conformidad con nuestra pedido dandolas ordenas que crea convenientes para q'l obtengamos el titulo posecion del repitido terreno. Suplicamos ignalmente q'l se nos dispense el uso del papel comun por no haber en el lugar del sello q'l corresponda, suramos no sir de malicia y lo necesario, &c.

Angeles, Octubre 8 de 1844.

JOSE JOAQUIN ORTEGA.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the above and foregoing to be a true and correct copy of a document as it appears in transcript No. 191, on file in my office.

In testimony whereof, I have hereunto set my hand and
[SEAL.] affixed the seal of said court, at Los Angeles, this 11th day of January, A. D. 1856.

C. E. CARR, *Clk.*

Filed January 11th, 1856.

C. E. CARR, *Clk.*

60 (H. H. No 1.)

Doc. annexed to the depo. of Abel Stearns.—Case No. 191.

Sello primero, cuatro pesos.

Habilitado provisionalmente por la aduana maritima del puerto del Monterey en el departamento de los Californias, para los años de mil ochocientos cuarenta y cuatro, y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

El ciudadano Manuel Micheltorena, general de brigada del
[SEAL.] ejercito Mejicano, ayudante general de la plana mayor del mismo, gobernador, comandante general y ynspector del departamento de las Californias:

Por cuanto el ciudadano José Juaquin Ortega, Mejicano por nacemiento y Don Eduardo Stokes, Mejicano por naturalizacion, han pretendido pa. sus benificios personales y el de sus familias el terreno conocido con el nombre de S'ta Ysabel y colindante con San José, en el puerto del carrecito, con el Balcano y Tecomaca, con la Ballena, practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas á nombre de la nacion Mejicana he venido en concederle el terreno mencionado declarandole la propriedad de el por las presentes letras, segetandose á la aprobacion de la ex'ma asamblea departmental y bayo las condiciones sigmentes:

1o. Dejaran libre las terrenas de lobor que actualmente ocupan los yndegenas, de San Diego, y á mas degaran á benificio de la mision las ciento cencnenta vacas que facilito el S'or Ortega para la comunidad de los indegenas de la mision.

2o. No podran venderlo enagenarlo ni he potecurlo un poner censo vinculo fianza ni otro gravamen alguna ni anu donarlo en manera alguna.

61 3o. Podran cercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutaran liqro y esclusivamente destinandolo al uso ó cultivo que mas le acomode pero dentro de un año fabricará casa y estará habitada.

4o. Cuando se les confirme la propiedad solicitaran del juez respectivo que les den posecion juridica en virtud de este despacho por el cual se demarcaran los linderos, en cuyos limites pondran á mas de sus mojoneras algunos arboles frutales ó silvestres de alguno utilidad.

5o. El terreno de que se hace donacion es de cuatro sitios de ga-

nado mayor poco mas ó menos segun demuestrace los documentos respectivos. El juez que diere la posecion lo hara media conforme á ordenanza quedando el sobrante que resulta á la nacion para los usos convenientes.

6o. Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon de el en el libro respectivo y se entreque á los interesados para su resguardo y demas fines.

Dado en Monterey á nueve de Noviembre de mil ochocientos cuarenta y cuatro.

MAN'L JIMENO, *S'rio.*

MAN'L MICHELTORENA.

Queda tomada razon de este titulo en el libro respectivo á foyos 11.
JIMENO.

62 The citizen Manuel Micheltorena, brigadier general of the Mexican army, adjutant general of the staff of the same, governor, commandant general and inspector of the department of California:

Forasmuch as the citizen Jose Joaquin Ortega, a Mexican by birth, and Mr. Edward Stokes, a Mexican by naturalization, have solicited, for their personal benefit and that of their families, the land known by the name of Santa Isabel, surrounded by San Jose in the Punta de Camista, with the balance of Tecomica with Ballena—the previous measures and investigations having been made according to the disposition and laws in relation to the subject—in use of the faculty conferred upon me by the Mexican nation, I have concluded to grant to them the land mentioned, declaring it to be their property by these presents, subject to the approbation of the most excellent departmental assembly, under these conditions:

1st. They will leave free the land laboring actually occupied by the natives of San Diego; and further, they will leave for the benefit of the mission the one hundred and fifty head of cattle that Montega facilitates to the Indians of the same and the community.

2nd. They can neither sell nor alienate it, nor hypothecate it, or impose upon it any rent, charge, (censo,) reversion, entail, or other burthen whatsoever.

3d. They can enclose it without prejudice to the crossings, roads, and servitudes, enjoy it freely and exclusively, destining it to the use or cultivation most agreeable to them, but within a year they must build a house which shall be inhabited.

4th. When the ownership is confirmed to them, they will request the respective magistrate to place them in judicial possession
63 thereof, by virtue of this despatch, for which purpose they will mark the lines, in the limits of which they will place, beside the landmarks, some fruit or wild trees of some utility.

5th. The land of which donation is made consists of four "sitios

de ganado mayor," a little more or less, according to the demonstration in the respective documents.

The magistrate who will place them in possession thereof will have it measured conformably with the ordinance, leaving the surplus that results to the nation for its convenient uses.

6th. If they shall contravene these conditions, they shall lose their right to the land, and it will be denounceable by another.

In consequence, I command that these presents shall serve a title, and holding them as firm and valid, that a record thereof be made in the respective book, and that they be delivered to the party interested, for his security and other ends.

Given in Monterey, on the ninth day of November, in the year one thousand eight hundred and forty-four.

MANUEL MICHELTORENA.
MANUEL JIMENO, *Sec'y.*

Record is made of this grant in the respective book of grants, on page 11.

JIMENO.

I, Chas. E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the above and foregoing to be a true, full, and correct copy of a document contained in transcript No. 191, (Jose Joaquin Ortega et al. against the United States,) and a translation of the same, as it appears on file in my office.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said court, at Los Angeles, this 10th day of January, A. D. 1856.

C. E. CARR, *Clerk.*

Filed January 11, 1856.

C. E. CARR, *Cl'k.*

64 Enel pueblo de San Diego á los 29 dias del mes de No'bre del año de mil ochocientos cuarenta y cuatro anuente a la solicitud de los C. C. Jose Joaquin Ortega y Eduardo Stokes vecinos, de esta municipalidad á fue de darseles la correspondiente posecion de los dos sitios Santa Ysabel y el llano de Pamo consedidos por el gobierno de este departamento cuyo titulo acompaño en su solicitud pase con los testigos de asistencia al espresado sitio y prosed y á dar la posecion indicada, previa citacion de colindantes arreglandose al repitido titulo q'l selea confiado p'r el exmo Sŏr gobernador D'n Manuel Micheltorena con f'ha de nueve de Nov'bre de 1844.

El C. Juan M'a Marron juez de a instancia de esta demarcacion asi lo proveé, mandé y firmé ante los testigos, espresados de asistencia, con quienes actuo por receptoria en este papel comun p'r falta del sellado correspondiente segun d'ho doy feé.

JUAN MA. MARRON.

De assa.:

JUAN MA. OROSCO.
SANTIAGO E. ARQUELLO.

[REC. CCLXXXVII, D. T. 1863.]—3

En el citio de Sta Isabel á 1° de D'bre de mil ochocientos cuarenta y cuatro, yo el mismo juez p'r la practica de estas diligencias nombre 3 oficiales cordeleros á quienes hize saber su nombram'to el q'l aceptaron bajo juram'to q'l otorgaron, ofreciendo desempeñar fielm'to su encargo lo q'e autorizo y firmo con los testigos de asistencia segun derecho.

JUAN MA. MARRON.

D. assa.:

JOSE MA. OROSCO,
SANTIAGO E. ARGUELLO.

En el mismo mes dia y año estando en el parage, de Sta Ysabel á efecto de verificar las medidas y posecion á D'n Jose Joaquin Ortega del sitio nombrado Sta Ysabel previos todos los requisitos de ley y estando ante mi los testigos de asistencia y cordeleros hize medir
65 un cordel que contenia cien varas y a los estremos unos sancos de madera, previa observacion y calculo p'r mi disposicion se tuvo el cordel desde el Balcon arriba en el portesuelo rumbo p'a San Felipe p'r la parte del oeste se midieron cuatro leguas de cabecera hasta el punto de Tecomara antes de bajar à las huestas de los Yndios Gentiles p'a el rumbo del este demarcando una cruz en un ensillo al fronte de una rancheria q'l, le contiene p'r lindero y en seguida se midio de norte, punto del carriso hasta la cuesta de la salvia, rumbo al sur, cuatro leguas y dos mil varas seguidamente en el mismo anto prosede á las medidas desde la mencionada cuesta de la salvia que es perteneciente á Sta Maria de Pamo de d'ho punto rumbo al norte hasta el ojo de agaa del Durasnito al sur dos leguas tres mil siete cientos varas, p'a la parte del cajon rumbo oeste hasta el divisadero p'a la parte de San Pascual rumbo al este se midieron de travesia dos leguas tres cientos varas las que se remataron en dicha punto, en donde mandé se figara una mojonera que es colindante con el pueblo de Sta Pascual, y no habiendo manifestado objeccion alguna que suspendiera las medidas fueron concluidas las medidas del rancho de Sta Ysabel y las de Santa Maria de Pamo, a satisfaccion del interesado el cual ordene pusiere, las respectivas mojoneras en las puntos correspondientes y quedo entendido habiendo marcardo aquellas en señal de posecion lo q'e autorizo y firmo con los testigos de asistencia segun d ro, doy feé.

JUAN MA. MARRON.

D. assa.:

JOSE JOAQUIN OROSCO.
SANTIAGO E. ARGUELLO.

En d'ho dia mes y ano habiendose concluida las diligencias de este espediente perteneciente al rancho de Sta. Ysabel y de Pamo
66 desele testimonio á D'n Jose Joaquin Ortega interesado en ellos p'r su seguridad y usos q'l le combengan. El c'no Juan Ma.

Marron, juez de 1o instancia de esta demarcacion asi lo proveyo y firmo con los testigos de asistencia segun derecho doy feé.

JUAN MA. MARRON.

D. assa.:

JOSE MA. OROSCO.
SANTIAGO E. ARGUELLO.

En el mismo dia mes y ano quedo librado á los interesados el testimonio q'l se refiere en anto anterior y para constancia lo el rubrique.

Filed in office Sept. 8th, 1852.

GEO. FISHER, *Sec'y.*

Filed Jan'y 11th, 1856.

C. E. CARR, *C'lk.*

67

68 *E.—Translation of juridical possession.*

Act of juridical possession in favor of the citizens Don José Joaquin Ortega and Edward Estoc, for the rancho of Santa Ysabel and the plains of Pamo.

In the village of San Diego, on the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and forty-four, in attention to the solicitude of the citizens José Joaquin Ortega and Edwardo Estoc, residents of this municipality, with the object of giving them the corresponding possession of the two places, Santa Ysabel and the llano of Pamo, conceded by the government of this department, which title I accompany in his solicitude, I went with the witnesses of assistance to the above-mentioned place, and proceeded to give the possession indicated, previous notice having been given to those whose land bounded upon that in question, subjecting myself to the repeated title that has been confided to him by his excellency the governor, Manuel Micheltorena, with date nineteenth November, A. D. 1844.

The citizen Juan Maria Marron, judge of first instance of this demarcation, this I provided, commanded, and signed, before the abovementioned witnesses of assistance, with whom I performed this judicial act, as preceptor on this common paper, for want of the corresponding seal paper, according to law, which I certify.

JUAN MARIA MARRON.

Assistance: JOSE MA. ORASCO.
Assistance: SANTIAGO E. ARGUELLO.

In the place called Santa Isabel, on the first day of December, in the year of our Lord one thousand eight hundred and forty-four, I, the same judge, for the practicing of these proceedings, I
69 named two official cord-bearers, whom I notified of their ap-

pointment, and under oath they accepted of the employment, offering to discharge their duties faithfully, which I authorized and signed with the witnesses of assistance, according to law.

JUAN MA. MARRON.

Assistance: JOSE MA. ORASCO.
Assistance: SANTIAGO E. ARGUELLO.

On the same day, month, and year, being at the place of Santa Ysabel, with the object of verifying the measurements and possession to Don José Joaquin Ortega, of the place called Santa Ysabel, previously attended to all the requisites of law, and present before me the witnesses of assistance and cord-bearers, I caused to be measured a cord one hundred varas in length, to the ends of which were fastened two wooden sticks, and after previous observation and calculation, by my disposition the cord was extended from the valcanoe above in the door or gap, direction towards San Felipe; westerly there were measured four leagues, as a head line to the point of Tecomaca, before coming down to the doors of the Gentile Indians, in the direction east, making a cross on an oak tree, in front of a hut or rancheria, which is considered the boundary, and consequently there then were measured from the north point of the common reed grass, to the declivity of sage south, four leagues and two thousand varas. In continuation, and at the same time, I proceeded to the measurement from the above-mentioned declivity of sage, which belongs to Santa Maria de Pamus, from said point, direction to the north, to the spring of water, Peach spring; thence south two leagues three
70 thousand seven hundred varas, upon the side of the deep ravine (or cajon) westerly, to the place where you begin to see the port of San Pascual, direction east, were measured in a transverse direction, two leagues and three hundred varas, which closed and ended in said point, where I commanded to be placed a landmark, which bounds with the village of San Pascuel. And no objection having been manifested that the measurement should be suspended, the admeasurement of the rancho of Santa Ysabel was concluded, as well as that of Santa Maria de Pamo, to the satisfaction of the party, and to the which I ordered the respective landmarks to be placed in the corresponding points, he understood it, I having marked them in sign of possession, which I authorize and sign with the witnesses of assistance, according to law, which I certify.

JUAN MA. MARRON.

Assistance: JOSE MA. ORASCO.
Assistance: SANTIAGO E. ARGUELLO.

On the said day, month, and year, having concluded the proceedings of the espediente which relate to rancho Santa Ysabel and Pamo, let testimony be given to D'n José Joaquin Ortega, the party interested in them, for his safety and the uses to which to him may seem proper.

The citizen, Juan Ma. Marron, judge of the first instance of this demarcation, thus he decreed and signed with the witnesses of assistance, according to law, which I certify.

JUAN MA. MARRON.

Assistance: JOSE MA. ORASCO.
Assistance: SANTIAGO E. ARGUELLO.

71 On the same day, month, and year, was extended to the parties interested the testimony which is mentioned in the anterior decree; and for constancy I sign with my scroll.

[SCROLL.]

Filed in office Sept'r 8th, 1852.

GEO. FISHER, *Sec'y.*

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the above and foregoing to be a true and correct copy of a document contained in transcript No. 191, (José Joaquin Ortega *et al.* against the United States,) and a translation of the same, as it appears in said transcript on file in my office.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said court, at Los Angeles, this 10th day of January, A. D. 1856.

C. E. CARR, *Clerk.*

Filed January 11th, 1856.

C. E. CARR, *Clerk.*

72 *Certified copy of translation of a document in transcript No.* 191.

Take information from the secretary of the despatch, I having seen the foregoing, in order so that it may seem in other cases when necessary.
Monterey, Oct. 18th, 1844.
MICHELT'A.

MOST EXCELLENT SIR: Jose Joaquin Ortega and Edward Stokes—the first a Mexican by birth, and the second by naturalization—being residents of the jurisdiction of San Diego, in the department of California, come before your excellency in due form of right, and state that on the 18th of July last we transmitted to the superior hands of your excellency a petition, wherein, in the usual manner, we requested that you would grant to us the rancho or "parage" of Temacula, belonging to the mission of San Luis Rey, without a view, at that time, of bettering our interests and that of our numerous families that nature has placed under our protection.

We are well aware that there is now another aspirant for the same, of equal or better merit than ourselves, the justice of which we acknowledge as having appeared proper. Wherefore, we withdraw our aforementioned petition, yielding in consequence thereof in favor of the petitioner the right of priority; and further, that it would be a question as to whether the superior government could act conformably to justice without the aforesaid circumspection.

Keeping always in view the maintenance required of us by our domestic obligations, we request anew the kindness of heart and

correct administration which is notoriously characteristic with your excellency, that you will give us legitimate ownership of the rancho of Santa Ysabel, recognized as the mission of San Diego, with lands, which have always been respected by it, consisting of "cuatro sitios de ganado mayor," a little more or less, in virtue of its being
73 absolutely vacant, and there being no probability that the mission will cultivate it, as will be accredited by the confirmation of its "religioso padre maestro," and that of the respective magistrate that duly we accompany.

Our integrity, most excellent sir, is sufficiently clear and manifest when we have relinquished that right that we might have had respecting the rancho of Temecula, this being equally confirmed—equally by the genuine confession of the R. P. M'tro of the mission of San Diego, Mr. Vicente Oliva, very well known for his many virtues and integrity in this class of business, and for the same we are confirmed that the departmental government, confided in the person of your excellency, will favor with that we have petitioned for.

We therefore humbly request that your excellency will deign to declare conformably to our request, giving such order as you should think convenient, in order that we may obtain the title and possession of the land mentioned.

We request equally that you will excuse our having used common paper, there being none stamped as corresponds in this place, swearing that we do not this from malice, but for necessary purposes.

Angeles, Oct. 8th, 1844.

JOSE JOAQUIN ORTEGA.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of Cal'a, hereby certify the above and foregoing to be a true and correct copy of a translation of a Spanish document, as it appears in transcript No. 191, on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Los Angeles, this 11th day of January,
[SEAL.] A. D. 1856.

C. E. CARR, *Cl'k.*

Filed Jan'y 11th, 1856.

C. E. CARR, *Cl'k.*

74 *Deposition of Augustin Olvera.*

In the district court of the United States for the southern district of California.

J. J. ORTEGA *et al.*, appellants,
vs.
THE UNITED STATES, appellees. } No. 195.

Testimony of Augustin Olvera, a witness for appellants, taken in open court this 11th day of January, A. D. 1856, on the trial of the above-entitled cause.

Wm. G. Dryden sworn as interpreter.

Augustin Olvera, being duly sworn, deposes and says:

Quest. What is your name, age, and place of residence?

Ans. My name is Agustin Olvera; my age is 35 years; and I reside in Los Angeles.

Quest. Did you know Edward Stokes, and do you know his widow and children, and Jose Joaquin Ortega, the claimants in this case?

Ans. I did know Stakes; I know his widow and children; also Jose Joaquin Ortega, the claimants in this case.

Quest. Are you an attorney of this court?

Ans. I am.

Quest. Have you examined the transcript of the proceedings before U. S. land commissioners, now on file in the office of the clerk of this court, and numbered on the docket of cases in this court
75 No. 191? If so, state whether the parties claimants and appellants in said case, No. 191, are the same parties who are the claimants and appellants in this case now on trial, and whether or not the Edward Stokes mentioned in said case No. 191, as one of the parties in that case, is the same Edward Stokes mentioned as one of the grantees in the case now on trial.

Ans. I have examined the transcript in case No. 191, from the land commission, and now on file in the office of the clerk of this court. The claimants and appellants in case No. 191 are the same parties who are claimants and appellants in the case now on trial. I know the fact of my own knowledge, independent of the transcript. The Edward Stokes mentioned as one of the parties in case No. 191, is the same Edward Stokes mentioned as one of the grantees in the case now on trial.

AGUSTIN OLVERA.

Sworn and subscribed to this 11th day of Jan'y, 1856, before me.

C. E. CARR, *Cl'k.*

Filed Jan'y 11th, 1856.

C. E. CARR, *Cl'k.*

76 *Deposition of Juan Bandini, a witness for appl'ts.*

In the district court of the United States for the southern district of California.

J. J. ORTEGA *et al.*, appl'ts,
vs.
THE UNITED STATES, appellees. } No. 195.

Testimony of Juan Bandini, a witness on the part of appellants, taken in open court, Jan'y 11th, 1856, on the trial of the above-entitled cause.

Wm. G. Dryden was sworn as interpreter.

Juan Bandini, being duly sworn, deposes and says:

Quest. What is your name, age, and place of residence?

Ans. My name is Juan Bandini; I am 55 years of age; my residence is in the county of San Diego.

Quest. Did you know Edward Stokes in his lifetime, and when did he die?

Ans. I did. I think he died in 1847 or '8, but am not certain.

Quest. Was it or not at the time Commodore Stockton's forces were in San Diego?

Ans. I think it must have been a little while after, for Stokes himself had joined Commodore Stockton's forces, and also accompanied General Kearney when he came into California, and was in the action of San Pascual.

Quest. Previous to the arrival of Commodore Stockton and General Kearney, where did Stokes reside?

Ans. He resided in San Diego.

77 Quest. Do you know the rancho in San Diego county called Santa Maria or Valle de Pamo?

Ans. I know it by the name of Santa Maria.

Quest. Did Stokes, Ortega, or either of them, at any time reside on said ranch? And if so, at what time?

Ans. Stokes generally resided on this rancho with his family before his death. Stokes resided on the rancho from the time of the concession until after 1846.

Quest. Do you know whether or not Stokes died very suddenly?

Ans. You may almost say suddenly. He was attacked with apoplexy, and died suddenly.

Quest. Whom did Stokes marry?

Ans. He married Refugia Ortega, a native of California, and daughter of José Joaquin Ortega, also a native of California.

Quest. State how many children they had by that marriage, and their names; and state is the widow and children are still living?

Ans. They had three children named Adolfo, Alfredo, and Edwardo. The mother and children are yet living.

Quest. In what part of the county of San Diego is the rancho of Santa Maria situated?

Ans. Northwest of the post of San Diego, between six and ten leagues from said pueblo. I have never been on the land, but I know its situation.

78 Quest. Do you know the rancho of Santa Isabel, in the county of San Diego? If yea, how far is it from said rancho of Santa Maria to Santa Isabel?

Ans. I never was on it, but I know it. I think the distance between the two ranches about 4 or 5 leagues.

Quest. Do you know the pueblo or place of San Pascual, in San Diego county? If yea, how far is it from said San Pascual to said rancho of Santa Maria?

1857

Ans. I know it. The distance between the two ranches I do not know; perhaps about 3 leagues.

Quest. Do you or not know that Edward Stokes, one of the alleged original grantees in this case, was a foreigner by birth?

Ans. He was a foreigner by birth.

JUAN BANDINI.

Sworn to and subscribed this 11th day of Jan'y, 1856, before me.

C. E. CARR, *Cl'k.*

Filed Jan'y 11th, 1856.

C. E. CARR, *Cl'k.*

79

80 *Motion for new trial.*

In the district court of the United States for the southern district of California.

JOSE JOAQUIN ORTEGA *et al.*, appellants,
vs.
THE UNITED STATES, appellees. } Case No. 195.

And now on this day, come the said appellants, and move for a new trial in the above-entitled cause, which said motion is based upon the annexed affidavit.

STATE OF CALIFORNIA, LOS ANGELES COUNTY,
February 5th, A. D. 1856.

Personally appeared before me W. C. Ferrell, who, being duly sworn, says that he is interested in the ranch of Vallo de Pamo, located in the county of San Diego, which said ranch was rejected by the honorable the United States district court for the southern district of the State of California, for want of sufficient testimony to locate the boundaries thereof. And he further deposes that sufficient proof does exist, and can be readily obtained, to locate the proper boundaries of the said ranch, and that he had reason to believe, and did believe, that such testimony had been produced by other parties interested in the ranch of Valle de Pamo, and was in the possession of the court.

W. C. FERRELL.

Sworn to and subscribed before me this 5th day of February, A. D. 1856.

C. E. CARR, *Cl'k.*

Filed Feb'y 5th, 1854.

C. E. CARR, *Clerk.*

81

82 *Deposition of J. J. Warner.*

United States district court, southern district of California.

J. J. ORTEGA, applt's,
vs.
THE UNITED STATES appl'es. } No. 195.

Quest. What is your name, age, and place of residence?

Ans. My name is J. J. Warner; my age is 48years; my residence, in the county of San Diego.

Quest. Do you know a place by the name of Valle de Pamo?

Ans. I do.

Quest. Where is it located?

Ans. In the county of San Diego.

Quest. Do you also know a place well known by the name of San Pascual? If so, where is it located?

Ans. I do. It also is located in the county of San Diego.

Quest. Are those well-known places of San Pascual and Valle de Pamo, valleys, or plains, or mountains?

Ans. San Pascual is an Indian village, located in a valley, through which runs the river of San Diegito. The name is also applied to a considerably extensive tract of land embraced in this valley, and lying about the Indian village. The name is also applied to a mountain, over which the road passes from San Pascual to the Rio Colorado. Valle de Pamo is an elevated valley or plain on the east side of the mountain of San Pascual, and pretty generally surrounded by mountains.

83 Quest. Does or does not this mountain of San Pascual form a natural boundary or division between the valleys as San Pascual and Valle de Pamo?

Ans. It does form a very prominent boundary or division.

Quest. When on the summit of this mountain, can you or not see the valley of San Pascual on the one side, and the valley de Pamo on the other?

Ans. They can be seen.

Quest. In what direction do the mountains and valley of San Pascual lie from the Valle de Pamo?

Ans. On the west.

Quest. How long has it been since you have been acquainted with these two valleys?

Ans. From July, 1844.

Quest. Do you or not know a place well known by the name of Santa Ysabela; and if so, where is the same located, and what is its extent and character?

Ans. I do know it. It is located in the county of San Diego on the road spoken of in a previous answer easterly of the plain of Pamo. When I first knew it in 1844, it was in the occupancy of San Diego mission, and had been previously used as a stock and agricultural establishment.

1589

There were extensive vineyards and buildings upon it. With regard to its extent, it is a large tract, embracing a number of leagues; I should judge that in the tract which I have known as Santa Ysabel, there are about eight leagues. Respecting its topographi-
84 cal features, it is diversified in separate valleys, mountaints, and hills, the greater portion of which—almost the entire tract—is drained by the brook known by the name of Santa Ysabela, which forms the arroyo of San Diegita, that being the principal source.

Quest. Do you or not know a valley lying within the boundaries of what was generally known as Santa Ysabela by the name of Ballena?

Ans. I do.

Quest. Do you or not know that the priests of the mission of San Diego, at the time that Santa Ysabel was occupied by the mission, claimed this Valle Ballena as belonging to the ranch of Santa Ysabel?

Ans. The minister of the mission of San Diego so informed me in July, 1844.

Quest. In what direction does the Ballena lie from Valle de Pamo?

Ans. Easterly. It is a short distance from Valle de Pamo.

Quest. Do you not know some watering places or springs of water known by the name of Santa Teresa? If yea, state what are the natural outlets from the waters of those springs.

Ans. I know a tract of country upon which there are springs which is called Santa Teresa; the waters of which flow off southwesterly, and find their way into the valley of Pamo. It is divided from the Ballena by a slight elevation in the land.

85 Quest. Has this ridge of land that divides the Ballena from Santa Teresa a well-known name? If yea, what name?

Ans. It has a name; it is called "Cuesta de Salvia."

Quest. What is the direction of this ridge, or "Cuesta de Salvia?"

Ans. About north and south.

Quest. Does or not the arroyo that forms the river San Diegito run from the Santa Ysabel to San Pascual, and what direction is it from the valley of Valle de Pamo?

Ans. It does so run, and is to the north of the Valle de Pamo.

Quest. Do you or not know if there is any valley lying between Valle de Pamo and the arroyo?

Ans. I do not know of any valley excepting such as are connected with and naturally form part of Valle de Pamo.

Quest. If such valleys existed, would you or not know it?

Ans. I think so, from having passed many times over the northern portion of this land.

Quest. Do you or not know of a place by the name of "Cajon de Santa Monica?"

Ans. I know a place by that name; it is a tract of country lying to the south of Valle de Pamo.

Quest. What is the natural boundary between this Cajon and Santa Monica? If yea, state what it is.

Ans. The Cajon is much lower than Pamo; the mountain separates

them; being very rocky, but few passes exist, and are hard to
86 get over.

Quest. Do you or not know if there is a deep cañada running through this range of mountains? If so, state its extent and character, and where it has its head.

Ans. There is a cañada running from the southwesterly part of the tract of Pamo in a southerly direction into the Cajon de Santa Monica, which cañada for its greater extent is impassable.

Quest. Do you or not know by what name this cañada is generally known?

Ans. I am not positive, but think the residents in the Valle de Pamo know it as the Cañada de Santa Monica.

Quest. Look at the map in the transcript in this case, and state whether you recognize as a correct map or not of the place called Valle de Pamo.

Ans. I think there would be no difficulty in recognizing it as a map of that tract of land.

Quest. Does or does not the tract of land delineated upon the map lie within the natural objects which you have described; and are those natural objects well known or not by those living in the vicinity and acquainted with the said land? And if so, how long have they been thus known and recognized?

Ans. It does lie within those objects, and which I think are well known to those living in the vicinity; they have been thus known and recognized ever since I have been acquainted with the locality, and I believe were names long previously applied to those places.
87 My personal knowledge goes back no further than 1844.

Cross-examined by the U. S. att'y.

Quest. What is the extent of the Valle de Pamo, of which you have spoken?

Ans. From east to west, I should judge, about seven miles; from north to south, about six miles. Its outlines being quite irreglar.

Quest. What is the distance from Santa Ysabel to San Pascual?

Ans. From the exterior limits of Santa Ysabel on the west to the pueblo of San Pascual is about twelve miles; perhaps a little less.

Quest. What is the distance from the pueblo of San Pascual to the Cajon de Santa Monica?

Ans. About ten miles; that is, ten miles to its exterior limits.

Quest. What is the distance from Santa Ysabel to the cajon of Santa Monica?

Ans. About ten miles at its nearest point.

Quest. Does any person or persons now reside on the place known by the name of Valle de Pamo? If yea, state their names and length of their residence.

Ans. There was a person residing there a few weeks since, a native of Sonora; he has not resided there long, and I have forgotten his name.

Quest. Do you or not know whether José Joaquin Ortega and

Edward Stokes ever lived upon it and occupied the place of
88 Valle de Pamo? And if yea, state what you know in relation to such residence and occupation.

Ans. Jose Joaquin Ortega was there residing in the summer of 1844. I saw him engaged there in harvesting wheat, from which time to the death of Stokes, about the year 1846, it was occupied with horses and cattle to the number of more than one thousand, belonging to them. A house was built upon it about the year 1844, in which has resided an overseer most of the time to the present day.

Quest. Where does Jose Joaquin Ortega now reside?

Ans. At the rancho of Santa Margarita, county of San Diego, where he has resided, I think, about a year.

Quest. Where has Ortega resided since 1846?

Ans. He has resided in various localities within and without the county of San Diego, and part of the time at Valle de Pamo.

Quest. In what year did Ortega live on the ranch of Valle de Pamo?

Ans. Part of the year 1844 and 1845.

Examination in chief resumed.

Quest. What is the distance from the extreme westerly limits of Santa Isabela to the San Pascual mountains, that separates the valley of San Pascual from the valley of Valle de Pamo?

Ans. I think about six or seven miles.

Quest. What is the distance from the western limits of Santa
89 Isabel to the head of the cañada that runs from the Valle de Pamo, through the mountains, into the valley known as the Cajon de Santa Monica?

Ans. About seven miles.

Quest. What is the distance from the head of this cañada to the mountain of San Pascual?

Ans. About three miles.

Cross-examination resumed.

Quest. What is the length of the cañada that runs from the Valle de Pamo, through the mountains, into the valley known as the Cajon de Santa Monica, before mentioned by you?

Ans. About ten miles.

J. J. WARNER.

Sworn to and subscribed this 15th day of February, 1856, before me.

C. E. CARR, *U. S. Com'r*

Filed Feb'y 15th, 1856. (No sig'r.)

90 *Motion for continuance, and affidavit in support thereof.*

United States district court for the southern district of California.

JOSE J. ORTEGA *et al.*, appellees, *ads.* THE UNITED STATES, appellant. } For the confirmation of the rancho "Balle de Pamo," No. 195.

Now, on this day, comes Myron Norton, one of the attorneys of record in this cause, and moves the court to grant a continuance of the case until the next term of the court, for the reasons set forth in the affidavit hereunto annexed.

MYRON NORTON, *Attorney.*

Personally appeared before me, W. C. Ferrill, and being duly sworn, deposeth and says, that he is now interested in the ranch of Balle de Pamo, situated in San Diego, as mortgagee; that the claim for said ranch of Jose Joaquin Ortega *et al.* was rejected by the U. S. dis't court for the southern district of California, on the 4th of the present month, not as the court says, in its opinion, for any want of proas of to the genuineness of the title to said ranch, but for want of sufficient proof as to its locality and proper boundaries; that the court aforesaid, on the 5th of this present month, reopened the case and granted a new trial. The affiant further says, that he believes that abundant evidence does exist and can be obtained to prove the locality and proper boundaries of said ranch of Balle de Pamo,
91 as called for in the title deed; that since the reopening of this case, a good deal of testimony has already been taken before the proper commissioner to establish these points, but that the most of the witnesses reside in the county of San Diego, and that it has been and will be impossible to procure their attendance during this term of the court, but that the evidence of said witnesses can be obtained before the next term.

W. C. FERRELL.

Sworn and subscribed to before me this 27th day of February, 1856.

C. E. CARR, *U. S. Commissioner.*

Filed Feb'y 27th, 1856.

C. E. CARR, *Cl'k.*

92 *Deposition of Wm. H. Leighton.*

United States district court for the southern district of California.

JOSÉ JOAQUIN ORTEGA *et al.*, appellants, *vs.* THE UNITED STATES, appellees. } Case No. 195.

Deposition of Wm. H. Leighton, taken before C. Sims, United States commissioner for the district of California, at the United States court-house in the city of Los Angeles, on the 16th day of March, A. D. 1857, at 1 o'clock p. m. on said day, on behalf of the appellants, by the agreement of parties, to be used as testimony in a certain

cause now pending in the U. S. dist. court for the southern dist. of California, being case No. 195 on the docket of said court, wherein José Joaquin Ortega *et al.* are appellants and the United States are appellees.

Present: Agustin Olvera, attorney in behalf of the appellants, and C. E. Thorn, present in behalf of appellees.

Questions by the att'y of appellants.

Quest. What is your name, age, and place of residence?

Ans. My name is William H. Leighton; I am 28 years of age, and I reside in San Diego.

Quest. What is your profession, and your actual occupation?

Ans. I am a civil engineer.

Quest. Are you in the employment of the county of San Diego?

93 Ans. I have been acting, at different periods in the last year, as the county surveyor of San Diego county.

Quest. Do you know any place distinguished or known by the name of Santa Maria, or "Valle de Pamo?" And if so, where is it situated?

Ans. I know a place, or rancho, called "Santa Maria." It is situated in a direction about northeast of the town of San Diego, in the county of San Diego; distant about 30 miles.

Quest. Do you know this ranch practically, by passing over it, or by travelling along the public roads?

Ans. I know it by having made a survey of it, as acting county surveyor of San Diego county.

Quest. Do you know, besides this ranch, any other ranch in San Diego county by the same name?

Ans. I do not.

Quest. Do you know, from your own knowledge, the lines of the ranch Santa Maria, or Valle de Pamo? And if so, give its boundaries or lines.

Ans. I do know the lines. I ran the lines in accordance with the calls of the grant as given me by Don José Joaquin Ortega, and also in accordance with the testimony of one William Williams, who was said to be present when judicial possession was given. (I did this at the request of José Joaquin Ortega.) Accordingly I commenced at a spot,

"Duras Nito," situated in the Valle de Pamo, ó Santa Maria,

94 that being the most southern boundary; from there I run in a direction toward the Lomas de San Vicente to a tree, or more, which was pointed out to me as being the object to which they ran when juridical possession was given. The course of this line was north 55° (degrees) east; length six miles 264 feet. From the Lomas de San Vicente, I ran in a direction north 10° (degrees) 30 minutes west, to a water hole called "Santa Teresa," extending the line until I struck the arroyo which forms the river of San Dieguito, which was named in the title as forming the northwest boundary of the ranch. Commencing then again at the starting point, "Duras Nito," I ran in a direction south 35° (degrees) east, passing the summit of San Pascual hills, until I again intersected the arroyo, which completed the lines of the ranch. This plan I state to be a correct plat of survey,

as made by me at that time, of the ranch "Santa Maria," or "Valle de Pamo," and marked A. & C. S.

Quest. Is the plan or plat of the tract of land hereunto annexed, marked A. & C. S., the same that you made when you surveyed the rancho of Santa Maria?

Ans. Yes; as I stated above in my last answer.

Quest. Are the lines that you have described in your answer above, and which are marked out on the plat annexed to this deposition, marked A. & C. S., natural boundaries; and if so, are they easily recognized or distinguished?

Ans. They are; and are easily recognized and distinguished.

95 Quest. Do you if there is a place included within the lines that you have described called "Aguage de Santa Teresa?"

Ans. I do.

Quest. What is the area of the rancho of Santa Maria, or Valle de Pamo?

Ans. A little more than six square leagues.

(C. E. Thorn, acting dist. att'y, waives any examination.)

WILLIAM H. LEIGHTON.

Sworn and subscribed to before me this 16th day of March, A. D. 1857.

C. SIMS, *U. S. Com'r.*

I, C. Sims, of the city and county of Los Angeles, and State of California, commissioner to take affidavits and bail in civil cases pending in the courts of the United States, and depositions under the acts of Congress approved September 24th, A. D. 1789; February 20th, A. D. 1812; and March 1st, A. D. 1812, by virtue of my office of clerk of the United States district court for the southern district of California, and by special appointment of the United States circuit court for the State and circuit of California, do hereby certify that the foregoing deposition of Wm. H. Leighton was taken before me on the 16th day of March, A. D. 1857, according to the agreement of the parties, at the United States district court-house in the city of Los Angeles, and State of California, in behalf of the appellants; that the said Wm. H. Leighton was by me duly sworn according to law, as a witness in said cause in the caption of this deposition

96 mentioned, and after being so sworn, his testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

[SEAL.] In witness whereof, I hereunto set my hand and private seal (having no seal of office) this 16th day of March, A. D. 1857.

C. SIMS,
United States Commissioner.

Filed this 16th March, 1857.

C. SIMS, *Clerk*,
By J. H. COLEMAN, *Deputy.*

(Here follows map, p. 97.)

99 *Decree.*

In the district court of the United States for the southern district of California—December term, A. D. 1857.

JOSÉ JOAQUIN ORTEGA *et al.*, appellants, *vs.* THE UNITED STATES, appellees. } No. 195. "Valle de Pamo," or "Santa Maria."

Transcript from the board of land commissioners, No. 332.

This cause, coming on to be heard at this term of the court on an appeal from the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved 3d March, 1851, upon a transcript of the proceedings and decision of said board, and the papers and evidence upon which said decision was founded, and the other evidence adduced before this court, and it appearing to the court that said transcript and the notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed that the decision of said board of land commissioners be, and the same is hereby, reversed, and that the claim of the said appellants is good and valid in law, and the same is hereby confirmed to them.

The land of which confirmation is hereby made is known by
100 the name of "Valle de Pamo," or "Santa Maria," and situated in the county of San Diego, in the southern district of the State of California, and bounded by Santa Isabel, the pueblo of San Pascual, and the cajon Santa Monica, and the Cañada de la Ballena, including within said boundaries the watering place lately called Santa Teresa, having also for a boundary line the arroyo which is made by the river of San Diegito, and for a further description of which reference is had to the depositions and map taken and filed in this court on the 16th March, A. D. 1857.

Provided the land of which confirmation is hereby made is of the extent of four square leagues, and no more, within the boundaries above described, if such quantity be therein contained; but if there be a less quantity, then confirmation is hereby made to such less quantity.

Thus done and signed in open court this 15th day of March, A. D. 1858.

ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed this 15th March, A. D. 1858.

C. SIMS, *Cl'k,*
By J. H. COLEMAN, *Dep.*

Order of appeal.

In the United States district court for the southern district of California—regular December term, A. D. 1857.

LOS ANGELES, *March 15th*, 1858.

On motion of E. J. C. Kewen, acting U. S. dist. att'y, it is ordered that an appeal be allowed the United States in case No. 195.

101 United States district court, south'n dist., Cal'a.

CLERK'S OFFICE, *Monterey.*

I, John O. Wheeler, clerk of the United States district court for the south'n dist., Cal'a, do hereby certify the above and foregoing pages, numbered from 1 to 100, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings and of the decision of said court, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 195 on the docket of the said court, wherein José Joaquin Ortega *et al.* is the claimant against the United States for the place known by the name of Valle de Pamo.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Monterey, this the 30th day of June, A. D. 1863.

[SEAL.]

JOHN O. WHEELER,
Cl'k of Dist. C't, S. Dist., Cal'a.